

THE COVENANT
OF THE
LEAGUE OF NATIONS
WITH A
COMMENTARY THEREON

PRINTED BY ORDER OF PARLIAMENT.



OTTAWA
J. DE LABROQUERIE TACHÉ
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1919

NOTE.

The Covenant of the League of Nations forms Part I of the Treaty of Peace with Germany, signed at Versailles on June 28th, 1919, and of the Treaty of Peace with Austria, signed at Saint Germain on September 10th, 1919. It is provided that these Treaties shall come into force as soon as they have been ratified by Germany and Austria respectively, and by three of the Principal Allied and Associated Powers. The Principal Allied and Associated Powers comprise the United States of America, the British Empire, France, Italy, and Japan.

The "Commentary on the League of Nations Covenant" included in this print was issued under the authority of the representatives of the British Empire on the League of Nations Commission of the Peace Conference. This Commission was responsible for the drafting of the Covenant. The British Empire representatives were the Right Honourable Lord Robert Cecil, K.C., M.P., and Lieutenant General the Right Honourable Ian Christiaan Smuts, K.C.

The Covenant of the League of Nations

The High Contracting Parties, in order to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, agree to this Covenant of the League of Nations.

ARTICLE 1.

The original Members of the League of Nations shall be those of the Signatories which are named in the Annex to this Covenant and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be effected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

ARTICLE 2.

The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

ARTICLE 3.

The Assembly shall consist of Representatives of the Members of the League.

The Assembly shall meet at stated intervals and from time to time as occasion may require, at the Seat of the League, or at such other place as may be decided upon.

The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the World.

At meetings of the Assembly each Member of the League shall have one vote, and may have not more than three Representatives.

ARTICLE 4.

The Council shall consist of Representatives of the Principal Allied and Associated Powers, together with Representatives of four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the Representatives of the four Members of the League first selected by the Assembly, Representatives of Belgium, Brazil, Spain and Greece shall be members of the Council.

With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

The Council shall meet from time to time as occasion may require, and at least once a year, at the Seat of the League, or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

At meetings of the Council each Member of the League represented on the Council shall have one vote, and may have not more than one Representative.

ARTICLE 5.

Except where otherwise expressly provided in this Covenant or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the Members of the League represented at the meeting.

The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

ARTICLE 6.

The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary General and such secretaries and staff as may be required.

The first Secretary General shall be the person named in the Annex; thereafter the Secretary General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and staff of the Secretariat shall be appointed by the Secretary General with the approval of the Council.

The Secretary General shall act in that capacity at all meetings of the Assembly and of the Council.

The expenses of the Secretariat shall be borne by the Members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE 7.

The Seat of the League is established at Geneva.

The Council may at any time decide that the Seat of the League shall be established elsewhere.

All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the League or its officials or by Representatives attending its meetings shall be inviolable.

ARTICLE 8.

The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military and naval programmes and the condition of such of their industries as are adaptable to war-like purposes.

ARTICLE 9.

A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles 1 and 8 and on military and naval questions generally.

ARTICLE 10.

The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression, or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

ARTICLE 11.

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise

and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council, any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE 12.

The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE 13.

The Members of the League agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

ARTICLE 14.

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

ARTICLE 15.

If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof.

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For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the Representatives of one or more of the parties to the dispute.

ARTICLE 16.

Should any member of the League resort to war in disregard of its covenants under Articles 12, 13, or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

ARTICLE 17.

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

ARTICLE 18.

Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

ARTICLE 19.

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

ARTICLE 20.

The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

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In cases any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE 21.

Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

ARTICLE 22.

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

The characters of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

ARTICLE 23.

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League—

- (a) will endeavor to secure and maintain fair and humane conditions of labour for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations;
- (b) undertake to secure just treatment of the native inhabitants of territories under their control;
- (c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;
- (d) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;
- (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;
- (f) will endeavour to take steps in matters of international concern for the prevention and control of disease.

ARTICLE 24.

There shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat, the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE 25.

The Members of the League agree to encourage and promote the establishment and co-operation of duly authorized voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

ARTICLE 26.

Amendments to this Covenant will take effect when ratified by the Members of the League whose Representatives compose the Council and by a majority of the Members of the League whose Representatives compose the Assembly.

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No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

ANNEX.

I. ORIGINAL MEMBERS OF THE LEAGUE OF NATIONS.

Signatories of the Treaty of Peace.

| | | |
|---------------------------|-----------------|-------------------|
| United States of America. | Cuba. | Liberia. |
| Belgium. | Czecho Slovakia | Nicaragua. |
| Bolivia. | Ecuador. | Panama. |
| Brazil. | France. | Peru. |
| British Empire. | Greece. | Poland. |
| Canada. | Guatemala. | Portugal. |
| Australia. | Haiti. | Roumania. |
| South Africa. | Hedjaz. | Serbia. |
| New Zealand. | Honduras. | Siam. |
| India. | Italy. | Tchecko-Slovakia. |
| China. | Japan. | Uruguay. |

States Invited to Accede to the Covenant.

| | | |
|---------------------|-----------|--------------|
| Argentine Republic. | Norway. | Sweden. |
| Chili. | Paraguay. | Switzerland. |
| Colombia. | Persia. | Venezuela. |
| Denmark. | Salvador. | |
| Netherlands. | Spain. | |

II. First Secretary General of the League of Nations.

The Honourable Sir James Eric Drummond, K.C.M.G., C.B.

COMMENTARY ON THE LEAGUE OF NATIONS COVENANT.

The first draft of the Covenant of the League of Nations was published on February 14, 1919; in the weeks following its publication the League of Nations Commission had the benefit of an exchange of views with the representatives of thirteen neutral Governments, and also of much criticism on both sides of the Atlantic. The Covenant was subjected to careful re-examination and a large number of amendments were adopted. In its revised form it was unanimously accepted by the representatives of the Allied and Associated Powers in Plenary Conference at Paris on April 28, 1919.

The document that has emerged from these discussions is not the Constitution of a super-State, but, as its title explains, a solemn agreement between sovereign States, which consent to limit their complete freedom of action on certain points for the greater good of themselves and the world at large. Recognizing that one generation cannot hope to bind its successors by written words, the Commission has worked throughout on the assumption that the League must continue to depend on the free consent, in the last resort, of its component States; this assumption is evident in nearly every article of the Covenant, of which the ultimate and most effective sanction must be the public opinion of the civilized world. If the nations of the future are in the main selfish, grasping and warlike, no instrument or machinery will restrain them. It is only possible to establish an organization which may make peaceful co-operation easy and hence customary, and to trust in the influence of custom to mould opinion.

But while acceptance of the political facts of the present has been one of the principles on which the Commission has worked, it has sought to create a framework which should make possible and encourage an indefinite development in accordance with the ideas of the future. If it has been chary of prescribing what the League shall do, it has been no less chary of prescribing what it shall not do. A number of amendments laying down the methods by which the League should work, or the action it should take in certain events, and tending to greater precision generally, have been deliberately rejected, not because the Commission was not in sympathy with the proposals, but because it was thought better to leave the hands of the statesmen of the future as free as possible, and to allow the League, as a living organism, to discover its own best lines of development.

THE MEMBERS OF THE LEAGUE.

Article I contains the conditions governing admission to the League, and withdrawal from it. On the understanding that the Covenant is to form part of the Treaty of Peace, the article has been so worded as to enable the enemy Powers to agree to the constitution of the League, without at once becoming members of it. It is hoped that the original Members of the League will consist of the thirty-two Allied and Associated Powers signatories of the Treaty of Peace, and of thirteen neutral States.

It is to be noted that original Members must join without reservation, and must therefore all accept the same obligations.

The last paragraph is an important affirmation of the principle of national sovereignty, while providing that no State shall be able to withdraw simply in order to escape the consequences of having violated its engagements. It is believed that the concession of the right of withdrawal will, in fact, remove all likelihood of a wish for it, by freeing States from any sense of constraint, and so tending to their more whole-hearted acceptance of membership.

THE ORGANS OF THE LEAGUE.

Articles II—VII describe the constitutional organs of the League.

The Assembly, which will consist of the official representatives of all the Members of the League, including the British Dominions and India, is the Conference of States provided for in nearly all schemes of international organization, whether or not these also include a body of popular representatives. It is left to the several States to decide how their respective delegations shall be composed; the members need not all be spokesmen of their Governments.

The Assembly is competent to discuss all matters concerning the League, and it is presumably through the Assembly that the assent of the Governments of the world will be given to alterations and improvements in international law (see Article XIX), and to the many conventions that will be required for joint international action.

Its special functions include the selection of the four minor Powers to be temporarily represented on the Council, the approval of the appointment of the Secretary-General, and the admission (by a two-thirds majority) of new members.

Decisions of the Assembly, except in certain specified cases, must be unanimous. At the present stage of national feeling, sovereign States will not consent to be bound by legislation voted by a majority, even an overwhelming majority, of their fellows. But if their sovereignty is respected in theory, it is unlikely that they will permanently withstand a strong consensus of opinion, except in matters which they consider vital.

The Assembly is the supreme organ of the League of Nations, but a body of nearly 150 members, whose decisions require the unanimous consent of some 50 States, is plainly not a practical one for the ordinary purposes of international co-operation, and still less for dealing with emergencies. A much smaller body is required, and, if it is to exercise real authority, it must be one which represents the actual distribution of the organized political power of the world.

Such a body is found in the Council, the central organ of the League, and a political instrument endowed with greater authority than any the world has hitherto seen. In form its decisions are only recommendations, but when those who recommend include the political chiefs of all the Great Powers and of four other Powers selected by the States of the world in assembly, their unanimous recommendations are likely to be irresistible.

The mere fact that these national leaders, in touch with the political situation in their respective countries, are to meet once a year, at least, in personal contact for an exchange of views, is a real advance of immense importance in international relations. Moreover, there is nothing in the Covenant to prevent their places being taken, in the intervals between the regular meetings, by representatives permanently resident at the Seat of the League, who would tend to create a common point of view, and could consult and act together in an emergency. The pressure of important matters requiring decision is likely to make some such permanent body necessary, for the next few years at least.

The fact that for the decisions of the Council, as of the Assembly, unanimity is ordinarily required, is not likely to be a serious obstacle in practice. Granted the desire to agree, which the conception of the League demands, it is believed that agreement will be reached; or at least that the minority will acquiesce. There would be little practical advantage, and a good deal of danger, in allowing the majority of the Council to vote down one of the Great Powers. An important exception to the rule of unanimity is made by the clause in Article XV providing that, in the case of disputes submitted to the Council, the consent of the parties is not required to make its recommendations valid.

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The second paragraph of Article IV allows for the admission of Germany and Russia to the Council when they have established themselves as Great Powers that can be trusted to honour their obligations, and may also encourage small Powers to federate or otherwise group themselves for joint permanent representation on the Council. Provision is made for securing that such increase in the permanent membership of the Council shall not swamp the representatives of the small Powers, but no fixed proportion between the numbers of the Powers in each category is laid down.

The interests of the small Powers are further safeguarded by the fifth paragraph of Article IV. Seeing that decisions of the Council must be unanimous, the right to sit "as a member" gives the State concerned a right of veto in all matters specially interesting it, except in the settlement of disputes to which it is a party. The objection that this provision will paralyse the efforts of the Council does not seem valid, as it is most likely that the veto would be exercised except in extremely vital matters.

The relations between the Assembly and the Council are purposely left undefined, as it is held undesirable to limit the competence of either. Cases will arise when a meeting of the Assembly would be inconvenient, and the Council should not therefore be bound to wait on its approval. Apart from the probability that the representatives of States on the Council will also sit in the Assembly, a link between the two bodies is supplied by the Permanent Secretariat, or new international Civil Service.

This organization has immense possibilities of usefulness, and a very wide field will be open for the energy and initiative of the first Secretary-General. One of the most important of his duties will be the collection, sifting, and distribution of information from all parts of the world. A reliable supply of facts and statistics will in itself be a powerful aid to peace. Nor can the value be exaggerated of the continuous collaboration of experts and officials in matters tending to emphasise the unity, rather than the diversity of national interests.

THE PREVENTION OF WAR.

Articles VIII–XVII, forming the central and principal portion of the Covenant, contain the provisions designed to secure international confidence and the avoidance of war, and the obligations which the members of the League accept to this end. They comprise:—

- (1.) Limitation of armaments.
- (2.) A mutual guarantee of territory and independence.
- (3.) An admission that any circumstance which threatens international peace is an international interest.
- (4.) An agreement not to go to war till a peaceful settlement of a dispute has been tried.
- (5.) Machinery for securing a peaceful settlement, with provision for publicity.
- (6.) The sanctions to be employed to punish a breach of the agreement in (4).
- (7.) Similar provisions for settling disputes where States not members of the League are concerned.

All these provisions are new, and together they mark an enormously important advance in international relations.

Article VIII makes plain that there is to be no dictation by the Council or anyone else as to the size of national forces. The Council is merely to formulate plans, which the Governments are free to accept or reject. Once accepted, the members agree not to exceed them. The formulation and acceptance of

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such plans may be expected to take shape in a general Disarmament Convention, supplementary to the Covenant.

The interchange of information stipulated for in the last paragraph of the Article will, no doubt, be effected through the Commission mentioned in Article IX. The suggestion that this Commission might be given a general power of inspection and supervision, in order to ensure the observance of Article VIII, was rejected for several reasons. In the first place, such a power would not be tolerated by many national States at the present day, but would cause friction and hostility to the idea of the League; nor, in fact, is it in harmony with the assumption of mutual good faith on which the League is founded, seeing that the members agree to exchange full and frank information; nor, finally, would it really be of practical use. Preparations for war on a large scale cannot be concealed, while no inspection could hope to discover such really important secrets as new gases and explosives and other inventions of detail. The experience of our own Factory Acts shows what an army of officials is required to make inspection efficient, and how much may escape observation even then. In any case, the League would certainly receive no better information on such points of detail from a Commission than that obtained through their ordinary intelligence services by the several States.

Nor can the Commission fill the role of an International General Staff. The function of a General Staff is preparation for war, and the latter requires the envisagement of a definite enemy. It would plainly be impossible for British officers to take part in concerting plans, however hypothetical, against their own country, with any semblance of reality; and all the members of a staff must work together with complete confidence. It is further evident that no State would communicate to the nationals of its potential enemies the information as to its own strategic plans necessary for a concerted scheme of defence. The most that can be done in this direction by the Commission is to collect non-confidential information of military value, and possibly to work out certain transit questions of a special character.

In Article X the word "external" shows that the League cannot be used as a Holy Alliance to suppress national or other movements within the boundaries of the Member States, but only to prevent forcible annexation from without.

It is important that this article should be read with Articles XI and XIX, which make it plain that the Covenant is not intended to stamp the new territorial settlement as sacred and unalterable for all time, but, on the contrary, to provide machinery for the progressive regulation of international affairs in accordance with the needs of the future. The absence of such machinery, and the consequent survival of treaties long after they had become out of date, led to many of the quarrels of the past; so that these articles may be said to inaugurate a new international order, which should eliminate, so far as possible, one of the principal causes of war.

Articles XII–XVI contain the machinery for the peaceful settlement of disputes, and the requisite obligations and sanctions, the whole hinging on the cardinal agreement that a State which goes to war without submitting its ground of quarrel to arbitrators or to the Council, or without waiting till three months after the award of the former or the recommendation of the latter, or which goes to war in defiance of such award or recommendation (if the latter is agreed to by all members of the Council not parties to the dispute), thereby commits an act of war against all the other members of the League, which will immediately break off all relations with it and resort, if necessary, to armed force.

The result is that private war is only contemplated as possible in cases when the Council fails to make a unanimous report, or when (the dispute

having been referred to the Assembly) there is lacking the requisite agreement between all the Members of the Council and a majority of the other States. In the event of a State failing to carry out the terms of an arbitral award, without actually resorting to war, it is left to the Council to consider what steps should be taken to give effect to the award; no such provision is made in the case of failure to carry out a unanimous recommendation by the Council, but it may be presumed that the latter would bring pressure of some kind to bear.

In this, as in other cases, not the least important part of the pressure will be supplied by the publicity stipulated for in the procedure of settlement. The obscure issues from which international quarrels arise will be dragged out into the light of day, and the creation of an informed public opinion made possible.

Article XIII, while not admitting the principle of compulsory arbitration in any class of disputes, to some extent recognizes the distinction evolved in recent years between justiciable and non-justiciable causes, by declaring that in certain large classes of disputes recourse to arbitration is *prima facie* desirable.

The Permanent Court of Justice, to be set up under Article XIV, is essential for any legal progress in international law. As things now stand, the political rather than the judicial aspect of the settlement of disputes is prominent in the Covenant, but "political" settlements can never be entirely satisfactory or just. Ultimately, and in the long run, the only alternative to war is law, and for the enthronement of law there is required such a continuous development of international jurisprudence, at present in its infancy, as can only be supplied by the progressive judgments of a Permanent Court working out its own traditions. Isolated instances of arbitration, however successful, can never result to the same extent in establishing the reign of law.

Under Article XV a dispute referred to the Council can be dealt with by it in several ways:—

- (1) The Council can keep the matter in its own hands, as it is certain to do with any essentially political question in which a powerful State feels itself closely interested.
- (3) It can submit any dispute of a legal nature for the opinion of the Permanent Court, though in this case the finding of the Court will have no force till endorsed by the Council.
- (3) While keeping the matter in its own hands, the Council can refer single points for judicial opinion.
- (4) There is nothing to prevent the Council from referring any matter to a committee, or to prevent such a committee from being a standing body. An opening is left, therefore, for the reference of suitable issues to such non-political bodies as the "Commissions of Conciliation" which are desired in many quarters. The reports of such committees would of course require the approval of the Council to give them authority, but the Covenant leaves wide room for development in this direction.
- (5) The Council may at any time refer a dispute to the Assembly. The procedure suggested under (2) (3) and (4) will then be open to the Assembly.

It has been already pointed out that, in the settlement of disputes under this article, the consent of the parties themselves is not necessary to give validity to the recommendations of the Council. This important provision removes any inconvenience that might arise in this connection from the right (see Article IV) of every Power to sit as member of the Council during the discussion of matters specially affecting it. We may expect that any Power claiming this right in the case of a dispute will be given the option of declaring itself a party to the dispute or not. If it declares itself a party, it will lose

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its right of veto; if not, it will be taken to disinterest itself in the question, and will not be entitled to sit on the Council.

The sanctions of Article XVI, with the exception of the last paragraph, apply only to breaches of the Covenant involving a resort to war. In the first instance, it is left to individual States to decide whether or not such a breach has occurred and an act of war against the League been thereby committed. To wait for the pronouncement of a Court of Justice or even of the Council would mean delay, and delay at this crisis might be fatal. Any State, therefore, is justified in such a case in breaking off relations with the offending State on its own initiative, but it is probable, in fact, that the smaller States, unless directly attacked, will wait to see what decision is taken by the Great Powers or by the Council, which is bound to meet as soon as possible, and is certain to do so within a few hours. It is the duty of the Council, with the help of its military, naval and air advisers, to recommend what effective force each Member of the League shall supply; for this purpose, each Member from which a contribution is required has the right to attend the Council, with power of veto, during the consideration of its particular case. The several contingents will therefore be settled by agreement, as is indeed necessary if the spirit of the Covenant is to be preserved, and if joint action is to be efficacious. But it is desirable at this point to meet the objection that under such conditions the League will always be late, and consequently offers no safeguard against sudden aggression.

It is true that, in default of a strong international striking force, ready for instant action in all parts of the world, the Members of the League must make their own arrangements for immediate self-defence against any force that could be suddenly concentrated against them, relying on such understandings as they have come to with their neighbours previously for this purpose. There is nothing in the Covenant (see Article XXI) to forbid defensive conventions between States, so long as they are really and solely defensive, and their contents are made public. They will, in fact, be welcomed, in so far as they tend to preserve the peace of the world.

To meet the first shock of sudden aggression, therefore, States must rely on their own resistance and the aid of their neighbours. But where, as in the case of the moratorium being observed, the aggression is not sudden, it is certain that those Powers which suspect a breach of the Covenant will have consulted together unofficially to decide on precautionary measures and to concert plans to be immediately put into force if the breach of the Covenant takes place. In this event these meetings of the representatives of certain Powers will develop into the Supreme War Council of the League, advised by a joint staff. Some reasons why this staff must be an ad hoc body, and not a permanent one, have been stated under Article VIII.

The last paragraph of Article XVI is intended to meet the case of a State which, after violating its covenants, attempts to retain its position on the Assembly and Council.

Article XVII asserts the claim of the League that no State, whether a member of the League or not, has the right to disturb the peace of the world till peaceful methods of settlement have been tried. As in early English law any act of violence, wherever committed, came to be regarded as a breach of the King's peace, so any and every sudden act of war, is henceforward a breach of the peace of the League, which will exact due reparation.

TREATIES AND UNDERSTANDINGS.

Articles XVIII-XXI describe the new conditions which must govern international agreements if friendship and mutual confidence between peoples are to

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prevail; the first three provide that all treaties shall be (1) public, (2) liable to reconsideration at the instance of the Assembly and (3) consonant with the terms of the Covenant. These provisions are of the very first importance.

Article XVIII makes registration, and not publication, the condition for the validity of treaties, for practical reasons, since experience shows that the number of new international agreements continually being made is likely to be so great that instant publication may not be possible; but it is the duty of the Secretariat to publish all treaties as soon as this can be done.

Article XIX should be read together with Article XI.

Article XXI makes it clear that the Covenant is not intended to abrogate or weaken any other agreements, so long as they are consistent with its own terms, into which the members of the League may have entered, or may enter hereafter, for the further assurance of peace. Such agreements would include special treaties for compulsory arbitration, and military conventions that are genuinely defensive. The Monroe doctrine and similar understandings are put in the same category. They have shown themselves in history to be not instruments of national ambition, but guarantees of peace.

The origin of the Monroe doctrine is well known. It was proclaimed in 1823 to prevent America becoming a theatre for the intrigues of European absolutism. At first a principle of American foreign policy, it has become an international understanding, and it is not illegitimate for the people of the United States to ask that the Covenant should recognize this fact. In its essence it is consistent with the spirit of the Covenant, and indeed the principles of the League, as expressed in Article X, represent the extension to the whole world of the principles of the doctrine; while, should any dispute as to the meaning of the latter ever arise between American and European Powers, the League is there to settle it.

THE FUNCTIONS OF THE LEAGUE IN PEACE.

Articles XXII-XXV cover the greater part of the ordinary peace-time activities of the League.

Article XXII introduces the principle, with reference to the late German colonies and territories of the Ottoman Empire, that countries as yet incapable of standing alone should be administered for the benefit of the inhabitants by selected States, in the name, and on behalf, of the League, the latter exercising a general supervision. The safeguards which enlightened public opinion demands will in each case be inserted in the text of the actual convention conferring the Mandate. No provision is made in the Covenant for the extension of such safeguards to the other similar dependencies of the Members of the League, but it may be hoped that the maintenance of a high standard of administration in the mandate territories will react favourably wherever a lower standard now exists, and the mandatory principle may prove to be capable of wide application.

The saving clause at the beginning of Article XXIII makes it clear that the undertakings following do not bind the members of the League further than they are bound by existing or future conventions supplementary to the Covenant.

Undertaking (a) throws the ægis of the League over the Labour Convention, which itself provides that membership of the League shall carry with it membership of the new permanent Labour organization; (b) applies to territories not covered by Article XXII; (d) refers to the arms traffic with uncivilized and semi-civilized countries. The matters specially mentioned in this article are to be taken merely as instances of the many questions in which the League is interested. Conventions relating to some of these, such as Freedom of Transit and

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Ports, Waterways and Railways, are now being prepared; with regard to a large number of others similar conventions may be expected in the future.

Article XXIV is of great importance, as it enlarges the sphere of usefulness of the Secretariat of the League to an indefinite degree. The Covenant has laid the foundations on which the statesmen and peoples of the future may build up a vast structure of peaceful international co-operation.

AMENDMENT OF THE COVENANT.

The provisions of Article XXVI facilitate the adoption of amendments to the Covenant, seeing that all ordinary decisions of the Assembly have to be unanimous.

The second paragraph was inserted to meet the difficulties of certain States which might fail to secure the assent of their proper constitutional authorities to an amendment agreed to by the Council and the majority of the Assembly. They are now given the option of accepting the amendment or withdrawing from the League; but there is little doubt that, if the League becomes an institution of real value, the choice will be made in favour of accepting proposals that already command such wide assent.

It is the facility of amendment ensured by this article, and the absence of restrictions on the activities of the Assembly, the Council and the Secretariat, which make the constitution of the League flexible and elastic, and go far to compensate for the omissions and defects from which no instrument can be free that represents the fusion of so many and various currents of thought and unrest.

NOTE ON THE STATUS OF THE DOMINIONS IN THE LEAGUE OF NATIONS.

The following Declaration respecting the interpretation of Article 4 of the Covenant was signed by M. Clemenceau, President Wilson and Mr. Lloyd George at the Plenary Session of the Peace Conference, held on May 6th, 1919, when the draft Treaty of Peace was adopted by the Allied and Associated Powers for presentation to the German Delegation on the following day. This Declaration was incorporated in the records of the Peace Conference. The Declaration is as follows:

The question having been raised as to the meaning of Article IV of the League of Nations Covenant, we have been requested by Sir Robert Borden to state whether we concur in his view, that upon the true construction of the first and second paragraphs of that Article, representatives of the self-governing Dominions of the British Empire may be selected or named as members of the Council. We have no hesitation in expressing our entire concurrence in this view. If there were any doubt it would be entirely removed by the fact that the Articles of the Covenant are not subject to a narrow or technical construction.

Dated at the Quai d'Orsay, Paris, the sixth day of May, 1919.

(Signed) G. CLEMENCEAU.

WOODROW WILSON.

D. LLOYD GEORGE.

